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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/317,409	05/24/1999	SCOTT D. LUCAS	1590.3039	9060
8015	7590	07/17/2006	EXAMINER	
CYTEC INDUSTRIES INC. 1937 WEST MAIN STREET P.O. BOX 60 STAMFORD, CT 06904-0060			BEFUMO, JENNA LEIGH	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/317,409	<b>Applicant(s)</b> LUCAS ET AL.	
	<b>Examiner</b> Jenna-Leigh Befumo	<b>Art Unit</b> 1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12,39-46,55,57-76 and 87-89 is/are pending in the application.
- 4a) Of the above claim(s) 1-12,39-46,60-76 and 87 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 55,57-59,88 and 89 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 23, 2006 has been entered.

### ***Response to Amendment***

2. The Amendment submitted on June 23, 2006, has been entered. Claims 13 – 38, 47 – 54, 56, and 77 – 86 have been cancelled. Claims 55, 88, and 89 have been amended. Therefore, the pending claims are 1 – 12, 39 – 46, 55, 57 – 76, and 87 – 89. Claims 1 – 12, 39 – 46, 60 – 76, and 87 are withdrawn from consideration as being drawn to a nonelected invention.

### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 55, 57 – 59, 88, and 89 stand rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kain, Jr. (6,180,206) for the reasons of record.

### ***Response to Arguments***

5. Applicant's arguments filed June 23, 2006 have been fully considered but they are not persuasive. The applicant's argues that the prior art fails to teach the claimed invention because the prior art does not teach the stiffness and frictional properties of the fabric layers. Further,

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applicant argues that the prior art fails to teach that modifying these properties would result in decreased core crush (response, pages 11 – 14). However, it has been held that as long as there is evidence of record establishing inherency, failure of those skilled in the art to contemporaneously recognize an inherent property, function or ingredient of a prior art reference does not preclude a finding of anticipation. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1349, 51 USPQ2d 1943, 1948 (Fed. Cir. 1999). Further, it is noted that when the PTO shows a sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not. *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990). Thus, the burden has shifted to the Applicant to provide evidence that the properties are not inherent in the prior art materials. *In re Best*, 562 F.2d at 1255, 195 USPQ at 433. Arguments of counsel cannot take the place of evidence. *In re De Blauwe*, 736 F.2d 699, 705, 222 USPQ 191, 196 (Fed. Cir. 1984).

In the present case the prior art teaches the claimed structural features. Specifically, the applicant claims that a stiffness treated prepreg comprises three structural components, i.e., a) a plurality of fibers, b) a polymerized precursor of polymeric material which has been treated, and c) a resin system. With regards to the newly added treatment limitation, the method limitation is interpreted as requiring that the stiffness treated fabric (i.e., fibers and polymeric precursor) is treated to some degree to react the polymeric precursor to at least partially cure the polymer, which results in the improved stiffness property. Kain, Jr. discloses that the skin and fabric layers comprise prepreg layers having a carbon or fiberglass fibers and a bismaleimide coating. Further, prepreg plies are produced by partially curing the polymer coating, i.e., treating the fabric, to reach a stage-B condition. Thus, the prepreg meets all the claimed structural

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limitations of the stiffness treated fabric. Kain, Jr. does not teach the stiffness value of the fabric, however, for the reasons set forth in the prior Office Action, this property is presumed to be inherent and it is the applicant's burden to provide evidence that this feature is not inherent. The fact that the property is not taught by the prior art is not sufficient to distinguish the present invention from the prior art.

Further, the stiffness treated prepreg requires a resin system. However, there is no limitation with regards to the location of the resin system, the type of resin, or the amount of resin. Therefore, the adhesive layer, which is a resin system, and the prepreg ply meet the structural limitations of the stiffness treated fabric recited in the claims. Hence, an adhesive layer adjacent the fabric layer can be combined together to teach the stiffness treated prepreg ply, since the location of the resin system is not limited within the structure. With regards to the enhance resistance to core crush resulting from the frictional resistance, Kain, Jr. is not required to teach the claimed property since it has been presumed to be inherent to the prior art structure since it teaches all the claimed structural limitations. Again, it is the applicant's burden to provide evidence that the claimed property is not inherent. The fact that the property is not taught by the prior art is not sufficient to distinguish the present invention from the prior art. Finally, it is noted that Kain, Jr. does teach that the arrangement of layers and honeycomb core results in preventing core crush. Thus, applicant's arguments are not sufficient to show that the prior art does not have the claimed properties.

Additionally, the applicant argues that the structure shown in Figure 4 does not teach the claimed structure. In fact, Figures 1 – 6 and the discussion related to the Hartz et al. type panels

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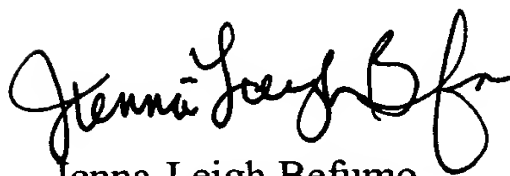
are not actually the invention taught by Kain, Jr., but instead prior art. Therefore, these arguments are not persuasive since they are not based on the invention disclosed by Kain, Jr.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jenna-Leigh Befumo  
July 10, 2006